

Policy and Procedure for Matters Related to Accounting of Disclosures of Protected Health Information

45 CFR 164.528; 45 CFR 5b.9(c)

PURPOSE: To establish the policy and procedure for making and accounting of (documenting) disclosures and for receiving and processing requests by patients for an accounting of disclosures of protected health information (PHI).

POLICY: A patient has the right to request and receive (with certain exceptions) an accounting of disclosures of PHI about the patient made by IHS and its contractors (business associates) in the six years prior to the date on which the accounting is requested or for the life of the record, whichever is longer. The accounting shall include disclosures made to or by IHS contractors (business associates).

The following disclosures do not require accounting:

Note: Despite the numerous exceptions in the HIPAA Privacy Rule, the Privacy Act (PA) requires an accounting of many of the disclosures excepted by the HIPAA Privacy Rule - and the PA does not provide that these accountings are exempt from a patient's request for an accounting.

- Disclosures to officers and employees of the Department of Health and Human Services who have a need to know the information for purposes of treatment, payment, or operations, or disclosures to the Secretary that are required in order to investigate or determine compliance with privacy requirements;
- Disclosures to the patient;
- Disclosures pursuant to the patient's written authorization; and
- Disclosures required under the Freedom of Information Act (FOIA).

All other disclosures require accounting.

PROCEDURE: The following procedures shall be used to make an accounting and to respond to patient requests for an accounting of disclosures of PHI.

A. How to Make an Accounting (i.e., Document a Disclosure)

1. Disclosures of PHI that are subject to an accounting should be recorded in the "Disclosure Accounting Record, IHS Form 505" or electronically utilizing the Release of Information (ROI) software package of the RPMS.
2. Each accounting (which will be given to the patient upon request) must be in writing, must include disclosures to and by IHS contractors (business associates), and must include for each disclosure:
 - Date of disclosure;
 - Name and address of the person or organization who received the PHI;
 - Brief description of the PHI disclosed, e.g., immunization record, labs, x-ray;

- Brief statement of the purpose of the disclosure (or include a copy of the written request for disclosure, if appropriate); and
- Accountings of oral disclosures of PHI should also include the name, signature and title of staff that made the oral disclosure.

B. Responding to Patient Requests for an Accounting of Disclosures

1. A request for an accounting of disclosures must be in writing, and should be made on IHS Form 913, "Request for an Accounting of Disclosures". The Form should be submitted to the Health Information (Health Records) Department that is responsible for receiving and processing such requests.
2. When a patient requests an accounting of disclosures, the patient must present valid identification unless the patient is personally known to the employee responding to the patient request. Guidance on identification procedures is found in the Policy and Procedures for Verification of Identity.
3. IHS must act on the request no later than 60 days after receipt of the request, and may extend this time for an additional 30 days, so long as it informs the patient in writing of the reason(s) for the delay and the date by which the patient can expect the accounting. The explanation sent to the patient must be retained in the patient's health record.
4. Temporary Suspensions of Accounting for Disclosures to Health Oversight Agencies or Law Enforcement Officials.
 - A. A health oversight agency or law enforcement official may ask IHS to suspend a patient's right to receive an accounting of disclosures if the agency or official provides a written statement that such an accounting to the patient would be reasonably likely to impede the agency or official's duties. The agency or official must specify how long the right to receive an accounting must be suspended. During the period of suspension, any disclosures requiring an accounting must still be accounted (documented). At the end of the suspension, a patient's right to receive an accounting is reinstated.
 - B. If the request for temporary suspension is made orally, IHS must document the identity of the agency or official who made the request and must exclude the disclosure(s) for no longer than 30 days from the date of the request, unless a written request is provided during that time. If the agency or official provides a written request that meets the requirements of 4A (above), IHS must temporarily suspend the patient's right to an accounting for the time period specified in the written request.